

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

19 Cr. 725 (JPO)

5 DAVID CORREIA,

6 Defendant.

Sentence

7 -----x
8 New York, N.Y.
9 February 8, 2021
11:40 a.m.

10 Before:

11 HON. J. PAUL OETKEN,

12 District Judge

13 APPEARANCES

14 AUDREY STRAUSS

15 United States Attorney for the
Southern District of New York

16 BY: REBEKAH A. DONALESKI

NICOLAS T. LANDSMAN-ROOS

17 Assistant United States Attorneys

18 GOODWIN PROCTER, LLP

Attorneys for Defendant

19 BY: WILLIAM JOSEPH HARRINGTON

1 THE COURT: This is Judge Oetken. I believe we're
2 ready to proceed. I can see on the video Mr. Correia,
3 Mr. Harrington, and Mr. Roos. So I think we're ready to go.

4 (Case called)

5 THE DEPUTY CLERK: Starting with the government,
6 counsel, please state your name for the record.

7 MR. LANDSMAN-ROOS: Good morning, your Honor.
8 Nicholas Roos for the United States. I'm joined on the line,
9 on the non video, by my colleagues, Rebekah Donaleski and Aline
10 Flodr.

11 THE COURT: Good morning.

12 MR. HARRINGTON: Good morning, your Honor. Bill
13 Harrington representing Mr. Correia. I note that Mr. Correia
14 is also on the videoconference.

15 THE COURT: Good morning.

16 Mr. Correia, can you hear me?

17 THE DEFENDANT: Yes, your Honor. I can.

18 THE COURT: Okay. We're here for sentencing in this
19 case. The defendant pleaded guilty on October 29, 2020, to two
20 counts of the superseding indictment, Count Two, which is
21 making false statements to the Federal Election Commission, and
22 Count Seven, conspiracy to commit wire fraud.

23 I want to start by recognizing the fact that we're
24 proceeding remotely by videoconference with an audio feed to
25 the public. Proceeding remotely for a sentencing is authorized

1 by the CARES Act in light of the current pandemic and by the
2 chief judge's standing order of this district finding that
3 sentencing proceedings cannot be conducted in person without
4 jeopardizing public health and safety, as long as the defendant
5 consents.

6 Mr. Harrington, have you discussed the subject of
7 proceeding by videoconference with the defendant?

8 MR. HARRINGTON: I have, your Honor. And we consent
9 to doing it remotely. Mr. Correia consents and requests that
10 it be done remotely.

11 THE COURT: Mr. Correia, you've had a chance to talk
12 to your lawyer, and you agree to do this remotely by video?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: I find the defendant has waived an
15 in-person proceeding and consents to proceeding remotely by
16 video. I also find that this proceeding cannot be further
17 delayed without serious harm to the interests of justice.

18 The defendant pleaded guilty after being charged in
19 the superseding indictment. And through counsel, he's
20 requested a prompt sentencing hearing. Conducting sentence at
21 this time will provide certainty and will avoid unwarranted
22 delays in achieving final resolution of the case as to this
23 defendant. And I find that further delay would not be in the
24 interests of justice.

25 In preparation for today's proceeding, I've reviewed

1 the presentence report with an addendum and sentencing
2 recommendation prepared by the probation department; the
3 submission by defense counsel, written submission, dated
4 January 25 with several letters, including a letter from
5 Mr. Correia, from members of his family, as well as friends and
6 business associates, all of which I have read; the written
7 submission by the government dated February 1; and three victim
8 impact letters, all of which I've read.

9 Do I have everything I should have, as far as you all
10 know, Mr. Roos?

11 MR. LANDSMAN-ROOS: Yes. The only other thing, your
12 Honor, is there is a restitution order and an updated schedule
13 A that we sent yesterday, and I just want to be sure your Honor
14 has that as well.

15 THE COURT: Yes. I have that as well. Thank you.

16 Do I have everything as far as you're concerned,
17 Mr. Harrington?

18 MR. HARRINGTON: Yes, your Honor.

19 THE COURT: Mr. Harrington, have you read the
20 presentence report and discussed it with your client?

21 MR. HARRINGTON: I have. We've discussed it.

22 THE COURT: And, Mr. Correia, you've also read the
23 presentence report?

24 THE DEFENDANT: Yes, your Honor. I have.

25 THE COURT: Any objections, Mr. Harrington?

1 MR. HARRINGTON: No, your Honor.

2 THE COURT: Mr. Roos, have you read the presentence
3 report?

4 MR. LANDSMAN-ROOS: Yes, your Honor. The government
5 has no objections.

6 THE COURT: All right. I adopt the facts in the
7 presentence report as my findings of fact, and I'll start with
8 the sentencing guidelines, as we always do in the federal
9 system.

10 Although the Court is not required to follow the
11 guidelines, I am required to consider the applicable guidelines
12 as a starting point and a benchmark in determining an
13 appropriate sentence.

14 In this case, the parties stipulated to the guideline
15 calculation, and the probation department agrees with the
16 parties' calculation. And I also agree that that is the
17 correct sentencing guidelines calculation.

18 The offense level, after adjustments and grouping is
19 23. And because the defendant accepted responsibility, there's
20 a 3-point reduction. So the total offense level is 20 under
21 the sentencing guidelines.

22 He has no prior convictions. Therefore, the criminal
23 history category is I. Therefore, the guideline range is 33
24 months to 41 months' imprisonment.

25 Now I will give each of you an opportunity to speak,

1 and I'll start with defense counsel. I'll note that I've read
2 all your submissions, which I appreciate and were very well
3 done. So you don't need to repeat what's in there. But
4 anything you'd like to say or highlight today, you're welcome
5 to do that.

6 And I'll start with Mr. Harrington.

7 MR. HARRINGTON: Thank you, your Honor.

8 My comments are aimed at highlighting much of what was
9 said in our papers. Our intention really was to present the
10 detail and the texture in my letter and Mr. Correia's letter
11 and the letters that came from others.

12 But I think there are two main factors that we want to
13 highlight for the Court. One is that the sentence the Court
14 imposes reflect the seriousness of the offense and that similar
15 people get a similar sentence for similar conduct.

16 The 33-month recommendation is based on our kind of
17 crude assessment of what the fraud is here, what the crime is
18 here. There are two characteristics we highlight in our letter
19 that fundamentally differentiate David from a person who is
20 typically within this range.

21 The first is that David himself received very little
22 personal gain, just over \$43,000 over seven years. I think
23 it's that fact that led probation to make the recommendation it
24 made, which is for a sentence well below the 33-month minimum.

25 The other thing that really distinguishes him is that

1 he has a very honestly held belief in the promise of Fraud
2 Guarantee, the business that he himself invested thousands of
3 hours of what he's talked to me about as sweat equity into the
4 business.

5 There are two letters from people he worked with,
6 brokers he worked with to try to make that business happen.
7 One of them describes how they came to be impressed with
8 David's worth ethic, his focus, his dedication. I think that
9 that dedication that David had to the business is different
10 than what your Honor might see in some other sorts of frauds.

11 The second characteristic that I want to focus on, the
12 issue I want to focus on is the history and characteristics of
13 Mr. Correia, which is one of the 3553(a) factors.

14 The letter talks about his modest upbringing and the
15 modest opportunities he had growing up as a young adult. And I
16 think it puts in context how it came to happen that he went
17 into business with Lev Parnas, how he ended up in these
18 projects, and how he ended up in the middle of these crimes
19 that he pled guilty to.

20 He's learned a great deal since his arrest. The
21 process of going through this and thinking about these
22 materials opened his eyes as to who Mr. Parnas was and what it
23 meant to be in business with him.

24 It's caused him to refocus on his family and take care
25 of them. He quickly pled guilty to the new charges that were

1 eventually filed against him. He really pled guilty in a
2 matter of weeks. And I think that reflects the change and the
3 learning that he's had since his arrest. He's also suffered a
4 lot already as a result his arrest.

5 He really hoped that these businesses would become
6 something. He spent years working on them. And those
7 businesses really lie, if not in ruin, at little hope of really
8 making them happen.

9 So he is in a place now where he needs to reset his
10 professional life because of the arrest. The press coverage
11 has been extensive and at times brutal for him. Even when the
12 sentencing was coming up, he was put on the front page of a
13 local newspaper in his old hometown.

14 That attention itself is a form of deterrence and
15 punishment for someone. That's not what the intention of it
16 is, but it has that effect. He's committed to pay restitution
17 of over \$2 million.

18 The government in their comments said a few court
19 conferences aren't really enough of a punishment. But I think
20 when seen in the overall context of what he's been through,
21 he's gone through a lot more.

22 And that has meant a lot in terms of how David has
23 processed this event and how someone else looking at it
24 would -- I don't think any person would look at David and say,
25 this was worth it. The \$43,000 that he achieved here over

1 seven years was worth all of the negative harm that he's gone
2 through, the kind of resetting of his professional life, and
3 the \$2 million restitution agreement that he has now.

4 I'm not saying that those consequences are unjust.
5 I'm just saying that they're real consequences and something
6 that the Court can consider in deciding how much more
7 punishment David needs to receive.

8 Also because his particular situation, incarceration
9 will be harmful. He takes care of his children. He's a
10 primary caregiver for them, particularly when his wife is
11 working. She has a very difficult schedule as a medical
12 professional.

13 He has health issues that will make prison more
14 difficult for him than an average person being incarcerated.
15 I saw the form letter from the Bureau of Prisons about how they
16 have health services available for people, and I recognize
17 that.

18 The argument though is that it can't be suggested that
19 prison wouldn't be harder for him than it would be for others.
20 So to the extent the Court concludes that a term of
21 incarceration is necessary, I would ask that the Court consider
22 that it will be more difficult for him to be in prison than for
23 other people, and it should be reduced accordingly.

24 Of course, we've asked for a non-incarceratory
25 sentence, given the specifics of David's situation. But

1 regardless, if the Court disagrees with that and ultimately
2 does think that jail time is appropriate, it will be harder for
3 him just because of the dietary issues and other issues that
4 will aggravate his health problem.

5 I think the fundamental question the Court faces is is
6 whether David is someone who requires a significant punishment,
7 a long term of incarceration, or whether he's really a good
8 person who did wrong.

9 This is a serious offense. There's no question about
10 it. How much more punishment does he really need. I think the
11 letters that were submitted both by David and the other people
12 in David's life really say a lot about him.

13 It's very striking that two of the victims of the
14 offense submitted letters that talked very positively about
15 David. The people that kind of knew him well had a very
16 positive response to him. Even others who knew about his crime
17 talk about his good character and their trust in him.

18 One of the letters said that the crimes that David
19 pled guilty to are not an accurate reflection of who David
20 Correia is as a human being, but rather the fact that he made
21 mistakes in judgments, and they're serious mistakes. There is
22 no question about that.

23 I hope that our submission to the Court demonstrated
24 the truth of what that one letter-writer said about who David
25 is as a human being, who he wants to be, who he's trying to be

1 because I think it says a lot about the needs and the sorts of
2 punishment that the Court might consider imposing.

3 So those are the elements of our submission that I
4 wanted to highlight for the Court, and I don't have any further
5 comments now.

6 THE COURT: Thank you, Mr. Harrington.

7 Mr. Roos, again, I've read the government's
8 submission, as well as the victim letters. I'm obviously
9 familiar with the case. But anything you'd like to highlight
10 today.

11 MR. LANDSMAN-ROOS: Thank you, your Honor.

12 So the scale of the fraud, the amount of money
13 involved, the duration of the scheme; the fact that defendant
14 received some of the victims' funds, even if it was
15 comparatively less; and the fact that the victims suffer to
16 this day, financially and emotionally, requires the imposition
17 of a significant sentence and one that is within the guidelines
18 range.

19 Your Honor, as you just acknowledged, has our
20 submission. And that submission outlines the reasons why, in
21 our view, a guideline sentence is necessary, specifically the
22 nature and the seriousness of the offense and the need for
23 deterrence, as well as the culpability of this individual
24 defendant.

25 Two points I want to draw out from the submission.

1 One is how Correia profited. It may not have been on the scale
2 of his codefendants, at least financially. But he did receive
3 money.

4 The evidence indicates that that was, at the time the
5 money was being solicited, a goal. And the evidence also
6 suggests that it was essential to his livelihood.

7 I also just want to make a note that the guidelines
8 recognize and look to loss amount, not the gain amount. And
9 that's because there are many frauds in fact where perpetrators
10 don't profit personally.

11 They may profit sort of indirectly, for instance, by
12 receiving a salary from a company that they're perpetrating a
13 fraud through. But that is not a core part necessarily of the
14 fraud. It's certainly an important point. I don't think the
15 fact that Correia got less money does not diminish the overall
16 scope of the fraud, which is serious.

17 Our sentencing submission also outlines the nature of
18 the scheme and the extensiveness of it and the role that
19 Correia played in it. And while I don't want to go over our
20 sentencing submission since your Honor has already read it, I
21 do want to highlight a few things from the victim impact
22 statements that came in after we filed our submission.

23 And I think these statements paint a picture of the
24 damage that David Correia has done through his fraud. From the
25 statements, there are a few conclusions that I think can be

1 drawn about Correia's culpability and the need for just
2 punishment in this case. So I'll go through those.

3 First, the statements describe Correia's extensive
4 role in the fraud. Victim 7 in particular notes that it was
5 Correia's job to convince him that the business was legitimate,
6 and he used the language "on the level." And we see that in
7 the transcript of the conversation between Correia and Victim
8 7. Correia was effectively the closer. He was essential.

9 And I emphasize this point because I want to be clear.
10 He wasn't some sidekick. He wasn't an assistant to Parnas. He
11 was an equal player in the criminal scheme, and that demands a
12 substantial sentence.

13 They may have had different roles and profited
14 differently, but that doesn't diminish the essential role that
15 Correia played in a fraud scheme that resulted in significant
16 losses.

17 Second, the statements describe how Correia benefited
18 from the scheme. Again, I think there is no dispute that he
19 comparatively received less money. But I think the victim
20 impact statements bear out that while Correia was defrauding
21 victims, he was telling them he was enjoying a luxurious life
22 that was filled with travel and nice hotels.

23 The impact statement from Victim 6 makes a point of
24 saying how Correia bragged about his lavish lifestyle. So I
25 think that bears noting in considering exactly how this

1 defendant profited or enjoyed the fruits of his criminal
2 scheme.

3 Third is that the statements describe the enormous
4 effect the fraud had on the victims, both mentally and
5 financially. Both Victim 6 and Victim 7 are self-made
6 individuals who support their families financially. They saw
7 this as a nest egg based on assurances from the defendants.

8 And their statements, while those detail how the fraud
9 has cost them financially -- it's injured their families. It's
10 exposed them to press attention, and it's caused great
11 emotional trauma.

12 And that emotional scarring those statements indicate
13 continues to this day. So I think that can't be overlooked in
14 terms of this is not a victimless scheme. There are real
15 victims who took the time to write statements, who have been
16 followed the case and who feel significantly injured by the
17 conduct of the defendant.

18 Finally, I want to say something about this fraud in
19 particular and why I think it's so pernicious. So Correia
20 solicited money for a business called Fraud Guarantee. There's
21 of course an irony or a pun involved in the fact that that's
22 the name of the business at issue here.

23 But what I think is important and what's emphasized by
24 a statement that Victim 6 wrote is that victim wrote: "I
25 invested my hard-earned money for the purpose of assisting

1 others, other investors to combat fraud."

2 So the business itself was about emphasizing the
3 devastating effect that fraud can have on people. Correia and
4 Parnas in fact told their own stories of how they had been
5 victimized by fraud.

6 One of the victim impact statements in fact
7 acknowledges how Correia said he was so damaged by fraud. And
8 while they were saying those things, acknowledging explicitly
9 the damage that can come from fraud, they were stealing money.

10 Correia was stealing money, and I think he was
11 defrauding the very people that he was telling this is how bad
12 fraud can be. Calling the business Fraud Guarantee, taking
13 peoples' money to help stop fraud and then stealing it,
14 effectively guaranteeing fraud, was just so brazen, and it
15 demands a significant sentence.

16 So for those reasons and for the reasons in our
17 submission, our view is that a guideline sentence is
18 appropriate. The only other thing I want to say, unless
19 your Honor has any questions, is that there is obviously on a
20 question of health and family circumstances the issue of the
21 pandemic.

22 I think, as we've noted previously, I don't think that
23 should be a consideration. And the government certainly, as we
24 have done in other cases, is willing to entertain a delayed
25 surrender until vaccination can happen or conditions have

1 improved.

2 And as your Honor knows, the BOP also has vaccination
3 underway. So I think that ultimately doesn't need to be a
4 weighty consideration in this context.

5 THE COURT: Just one or two questions for the
6 government, Mr. Roos.

7 First of all, I wonder if you would speak a little bit
8 more to the relative culpability of Mr. Correia as compared to
9 codefendants, I guess in particular, Mr. Parnas.

10 It's a little difficult to do that in a situation
11 where Mr. Parnas hasn't pled and is, as of now, planning to go
12 to trial. So I wondered if you could tell me anything about
13 the state of the record.

14 What does it mean that Mr. Correia received only
15 \$43,000, which is I think 2 percent of the amount that was
16 defrauded from the victims or less, where at the same time so
17 much more of the money coming in seems to have been used by
18 Mr. Parnas for luxury items and things like that?

19 Does that make Mr. Correia more like an employee as
20 opposed to a partner in practice?

21 And the second aspect of it, if you can speak to, is:
22 What can you tell me about the record of what he was doing?

23 Some of the letters indicate -- well, some of the
24 defendant's submission points indicate he really believed in
25 this business and that he was actually working day to day to

1 kind of make it come to fruition, talking to insurance brokers,
2 etc.

3 what can you say about those two aspects and how they
4 go to relative culpability?

5 MR. LANDSMAN-ROOS: Certainly, your Honor. Your Honor
6 correctly notes that obviously Mr. Correia's codefendant hasn't
7 pled guilty. But I'll just assume for purposes of the record
8 what's in our submission and what's in the indictment against
9 codefendant and sort of assess relative culpability
10 accordingly.

11 So number one, there is no question that the
12 defendants played different roles. Mr. Parnas might be
13 described as like a big-ideas guy here, certainly as an
14 animating vision, gives direction, helps to find the victims,
15 tell them a story.

16 I think the record also points that an equally
17 important part of the scheme was the closing. Mr. Correia was
18 effectively the closer in this scheme. We have a transcript of
19 that. We have victim impact statements that show that.

20 And I think the facts set forth in the PSR also
21 corroborate that, which are, when it came time to getting the
22 money, whether it was assembling an investor deck, putting
23 together an agreement, getting people to wire funds, ultimately
24 selling them, it was Mr. Correia.

25 So in terms of the core elements of a wire fraud --

1 who was making the misrepresentations, who is ultimately
2 selling the victims on parting with their money -- I would say
3 they are equal players in that. They may play different roles,
4 but both roles are equally important in terms of effecting a
5 scheme to defraud investors.

6 On the money, no dispute. Just from tracing the
7 funds, we see that money typically first arrives in an account
8 that goes to Mr. Parnas. And then oftentimes, some of those
9 funds are directed to Mr. Correia.

10 There is of course in some ways an answer or a
11 knowable question of all of those cash withdrawals -- where did
12 they go. Who got the money. There's a question of, you know,
13 as indicated in Victim 6's submission, whether or not some of
14 the travel was being financed by Parnas or Mr. Correia. But I
15 think there can be no dispute that Mr. Parnas profited
16 personally at a greater extent than Mr. Correia.

17 What I will say, at the same time, that doesn't mean
18 that the funds received by Mr. Correia weren't absolutely
19 essential to his livelihood. There is a part in our sentencing
20 submission discussing an instance in which Mr. Correia was
21 relatively broke and was pleading with Mr. Parnas for a portion
22 of the funds so that he could pay living expenses.

23 And so certainly that does not paint a picture of a
24 defendant who is traveling the world on profits from victims.
25 But I think there is still a financial motive there, and that's

1 something important to consider.

2 Finally, on your question about this working sweat
3 equity in the company, I think there is no dispute between the
4 parties that Mr. Correia put a bunch of time into Fraud
5 Guarantee. It hasn't manifested anything.

6 But I think what's significant -- and I point to sort
7 of a vignette in our submission -- is an instance when the
8 money came in from Victim 6. And we quote a text message in
9 there where there is an exchange where Mr. Correia and
10 Mr. Parnas are eagerly awaiting Victim 6's money. And upon the
11 money coming in, Mr. Correia says, like, can I have \$25,000?

12 That is particularly telling because it indicates that
13 this was not about, well, let's invest the money and things
14 sort of went awry. The scheme was at the moment the wire hits,
15 let's take a bunch of that money and use it for stuff that's
16 totally unrelated to the business.

17 And I think that's a telling instance because it
18 indicates that regardless of hopes and dreams about what this
19 business would be, when the dollars arrived, they had very
20 different intentions.

21 THE COURT: When he was arrested -- actually, he was
22 in the Middle East when the codefendants were arrested.

23 Does the record reflect if he was in the Middle East
24 pursuing business for Fraud Guarantee or something else?

25 MR. LANDSMAN-ROOS: You know, your Honor, I'm not sure

there's a clear indication in the record. I guess all I would say on this is I think it's maybe acknowledged from some other materials that the defendant had multiple things he was working on at various times.

Another one was Global Energy Producers as represented in the indictment. But I don't think there's an indication in the record of what he was doing in the Middle East at the time.

THE COURT: And you mentioned Victim 6. The last victim was Victim 7 who I believe has written a letter and gave two wires of \$250,000 each to Attorney 1.

Does the record reflect whether that was in fact for Fraud Guarantee business as opposed to something else?

MR. LANDSMAN-ROOS: You know, your Honor, I think bottom line is the record is not fully probably developed on that question. I think ultimately in some ways, it will be immaterial for a few reasons.

Number one is, as the PSR outlines, there were a number of misrepresentations about the business itself, separate and apart from how that money would be used.

And second, I think your Honor reading it can see there was maybe -- there were representations made about what would come from that, from those wires, that may not have ultimately happened.

THE COURT: Okay. Thank you.

MR. LANDSMAN-ROOS: Just one more point, your Honor.

1 The sentencing submission I think acknowledges that Correia
2 told Victim 7 that Attorney 1 would help out on a number of
3 things. So there is at least that in the record to sort of
4 guide your Honor on the question of was it more than one
5 potential.

6 THE COURT: Okay. And then finally just one other
7 question, which is about the other count, the false statement
8 to the FEC.

9 The shell company was Global Energy Producers, which
10 was I believe in the end, according to how you've described the
11 evidence, was designed to cover up the fact that it was
12 actually a loan taken out from a codefendant backed up by a
13 mortgage or something like that. It wasn't a foreign donation
14 or something like that.

15 So am I correct that it wasn't in fact at the end of
16 the day covering up something that would have been an illegal
17 donation?

18 MR. LANDSMAN-ROOS: No. I don't agree with that, your
19 Honor, because it's not a foreign violation, but it would still
20 be a violation of 52 U.S. Code, Section 30122, which is the
21 straw donor prohibition, making a contribution in the name of
22 another person.

23 So here, the evidence is clear that it was a
24 codefendant taking out a personal loan, passing that money that
25 was indisputably his money and not related to a business,

1 through an LLC controlled by a codefendant and then reporting
2 it to a PAC as coming from Global Energy Producers and saying
3 this is a contribution from that entity. So effectively here,
4 the straw is the company.

5 So just to be clear, Mr. Correia didn't plead guilty
6 to any of those substantive counts or the conspiracy as charged
7 in Count One of the indictment. This would just be the after
8 effect reporting to the PAC.

9 THE COURT: All right. Thank you.

10 I'm going to ask Mr. Correia if he would like to
11 speak.

12 Before I do, Mr. Harrington, is there anything that
13 you want to add?

14 MR. HARRINGTON: If I may, your Honor, very briefly.
15 I think that Mr. Roos is correct that gain matters as well, not
16 just loss -- rather gain is not the only factor. Loss also
17 matters. Mr. Correia has agreed to restitution in the full
18 amount. But I think the nature of the loss matters too.

19 And Victim 7 illustrates something. Victim 7 was told
20 by Mr. Correia that the \$500,000 was being raised so that
21 Attorney 1, who is a high-profile attorney and who had done
22 work in similar states in the past, could assist Fraud
23 Guarantee in pushing the project forward.

24 And he wrote a long letter to investors about that and
25 his excitement of having Attorney 1 involved in the project.

1 I'm not aware of any evidence from the government that suggests
2 that Attorney 1 was doing something else for the money, other
3 than to assist Fraud Guarantee. That was the purpose of it.
4 And every penny of the \$500,000 went to Attorney 1.
5 Mr. Correia didn't take any of that money.

6 The thing Mr. Correia did that was wrong in that call
7 is when he was asked what the amount of money was that had been
8 raised by the company, he initially said he didn't know at that
9 time. And when he was asked again, he said, probably \$4
10 million or \$5 million. And it wasn't \$4 million or \$5 million.
11 It was only \$1.7 million.

12 It may be that this victim was really interested in
13 the involvement of Attorney 1. But Mr. Correia shouldn't have
14 said it was \$4 million or \$5 million when it wasn't \$4 million
15 or \$5 million. That was something that the victim asked about,
16 and that was important to the victim.

17 THE COURT: To say that it was \$1.7 million is
18 arguably misleading because as the money was coming in, it was
19 simply being used for personal expenses in many cases. Right?

20 MR. HARRINGTON: Some of the earlier victims gave
21 money, and it was used for personal expenses when those
22 victims, as the government reports, were told that that
23 wouldn't be the case.

24 So we're not disputing the wrongness of it. Victim 7
25 illustrates something. There really was an effort to build the

1 business here. All of the \$500,000 from victim 7 was used in
2 the way that Victim 7 was told it was going to be used. But
3 that's still part of the loss figure, and it's still increasing
4 his guideline range.

5 In terms of the money that came out, Mr. Parnas the
6 record shows received hundreds of thousands in funds used to
7 pay rent and other items. It was far more than Mr. Correia and
8 did allow for a lifestyle that was the sort of lifestyle that
9 Mr. Correia hasn't lived.

10 So I do think there is a significant difference
11 between the two. So those are the only comments I would ask to
12 add. Thank you.

13 THE COURT: Thank you.

14 I've heard from counsel. Mr. Correia, I'm going to
15 give you a chance to speak. However, you're not required to
16 speak, and you did write a letter which I appreciate and which
17 I've read. But if there's anything you'd like to say today,
18 you may do so.

19 THE DEFENDANT: Thank you, your Honor.

20 I have prepared something short. I just want you to
21 know that I sincerely have learned quite a bit in the last 16
22 months about who I am as a person, why I believe I did the
23 things I did, and the poor decisions that I made.

24 I let down many people who trusted me, including the
25 people who invested in my projects. In the past year since

1 being arrested, I have tried to make sense of this literally
2 every day.

3 I have thought about how I can change my life, which I
4 have begun, to be a better father, a more loving husband, and
5 so much more. Overall, I am fully committed to being the
6 person who achieves what I have always wanted to be, which is a
7 good person. I put my thoughts about these into the letter
8 that you referenced that I wrote, and it was very difficult to
9 do at times.

10 Today I really want to add one important thing. I
11 feel true remorse for my previous actions. These actions do
12 not reflect what I want in life, and I will never repeat them
13 again. Thank you.

14 THE COURT: Thank you, Mr. Correia.

15 Is there any reason sentence may not be imposed at
16 this time?

17 Mr. Roos?

18 MR. LANDSMAN-ROOS: No, your Honor.

19 THE COURT: Mr. Harrington?

20 MR. HARRINGTON: No, your Honor.

21 THE COURT: In preparing to sentence the defendant,
22 I've considered the presentence report; probation's
23 recommendation; and the written and oral statements of defense
24 counsel, the defendant, and the government; as well as all the
25 letters submitted on behalf of the defendant and the letters

submitted by certain victims in this case.

And I've considered all the factors in the statute that governs my decision, Section 3553(a) of Title 18. That includes the sentencing guidelines of course and policy statements but also the nature and circumstances of the offense; the defendant's history and characteristics; and the purposes of sentencing -- the need to provide just punishment, the need to reflect the seriousness of the offense and to promote respect for the law, to promote adequate deterrence and protect the public, and to provide any needed or appropriate training and treatment to the defendant.

I'm also required to consider the need to provide restitution and the need to avoid unwarranted sentencing disparities among similar defendants in similar situations. In the end, I'm required to impose a sentence that is sufficient but not greater than necessary to comply with the purposes in the statute.

The defendant committed two separate crimes, both of which were serious crimes. First, he defrauded victims out of more than \$2 million essentially selling them on the idea of turning over their money to invest in his Fraud Guarantee business by making misrepresentations and lying to them about how much money had been raised and about what the money was being used for.

These were important misrepresentations. The victims

1 would not have invested hundreds of millions of dollars of
2 their money had they known that the vast majority of their
3 investment was being used to pay for personal expenses,
4 including luxury items, and not legitimate expenses of an
5 actual, operating business.

6 I'm persuaded that the defendant knew the significance
7 and impact of his misstatements to investors. Of course the
8 irony of the business' name, Fraud Guarantee, is hard to
9 ignore.

10 The idea of the business was to insure investors
11 against the risk of criminal fraud, which is exactly what the
12 defendant engaged in while raising money from investors in this
13 very business.

14 The crime was serious also because it had real victims
15 who actually lost over \$2 million among them. And although the
16 defendant personally benefited from only a small fraction of
17 that amount, he was directly involved in the communications
18 with the investors that misled them.

19 Two of the three victim letters submitted in this case
20 speak to what they experienced as a result of this fraud. As
21 one of them said: "These men conspired to steal money from me.
22 They caused me so much pain and grief emotionally, financially,
23 and every way possible by defrauding me."

24 This crime is also serious because it was not just a
25 momentary lapse of judgment. It took place over the course of

seven years and involved repeated lies and falsehoods.

Defense counsel has argued that the defendant actually believed in this business idea and genuinely thought that it could be successful at some point. And I think there's probably some truth to that.

But that does not justify lying about how much his company had raised or how the investors' money would be used. It is common for fraudsters to try to justify their behavior on the theory that they thought it would all work out in the end. At the end of the day, that does not justify committing fraud.

The other crime in this case is making false statements to the FEC, and it really is an independent crime from the wire fraud. That separate crime did not involve any direct financial victims in the same way, but it is nevertheless serious in a different way, in a way that is nonetheless pernicious.

It's serious because it undermines the federal governments ability to enforce the campaign finance laws to ensure that donations are lawful and to ensure transparent elections.

I'm also required to consider the history and characteristics of the defendant. Mr. Correia is a 45-year-old man. He has no prior convictions. He had a challenging childhood, but he became a talented golfer.

He has a wife and two children who certainly love him

1 and care about him. And the letters do speak to the positive
2 aspects of his character and the positive effect he's had on
3 others in his life.

4 I should note that two of the seven victims in this
5 case, as Mr. Harrington noted, have actually written in support
6 of Mr. Correia asking me to impose a lenient sentence, and that
7 is something you don't see every day in a fraud case. And that
8 suggests that there are certainly positive aspects of him as a
9 person.

10 These particular victims appear to believe that
11 Mr. Correia really did believe in and worked toward what he
12 hoped would be a genuine business at some point. But, again,
13 that does not excuse the misstatements and lies that he made to
14 defraud the victims out of over \$2 million.

15 In the end, the purposes of just punishment, respect
16 for the law, and deterrence call for a significant punishment
17 to reflect the seriousness of these crimes.

18 Indeed, unlike many cases, this is actually a case, in
19 my view, where a guideline sentence, 33 months at the low end,
20 is not an unreasonable sentence. There are many cases I think
21 where the guidelines overstate culpability. This is not
22 necessarily one of those when you add both of the offenses
23 together.

24 However, I am persuaded that a variance, as
25 recommended by the probation department below the guidelines is

warranted principally for two reasons:

First, as Mr. Harrington has emphasized, Mr. Correia personally appears to have received a relatively small portion of the proceeds of this fraud compared to his codefendant. And I believe that that fact has some relationship, albeit not a perfect one, to lesser culpability overall on a fraud conviction.

And second, Mr. Correia does have medical conditions that will make a term of imprisonment more difficult than it would be for a healthy person, particularly in light of the risks of COVID-19.

That having been said, I am confident that the BOP is equipped to handle his medical conditions, and the way to address the risk from COVID-19 is to defer his surrender date.

So I am certainly opened to deferring his surrender date to a time perhaps in May, if that is appropriate. And I'll entertain a motion to extend that date depending on where BOP is with vaccinations.

As of now, my understanding is that BOP has a target date of May for full vaccinations of anyone who will be vaccinated, staff and inmates in the system, and that all new inmates will be vaccinated prior to entry into the system. But if that changes, I'm certainly open to deferring the surrender date.

Balancing these considerations and the need to impose

1 a sentence that is sufficient but not greater than necessary to
2 comply with the purposes in the statute, I have decided that an
3 appropriate sentence is 12 months and one day imprisonment on
4 both counts current as recommended by the probation department.

5 The reason why I add one day to the 12 months, as you
6 probably know, is that adding time above one year allows for
7 good-time credit. So if you have no infractions, it will be
8 closer to a little over ten months in prison. But the sentence
9 is 12 months and one day followed by three years of supervised
10 release.

11 I'd like to ask defense counsel if you have any legal
12 objection or any legal reason that that may not be imposed.

13 MR. HARRINGTON: I don't, your Honor.

14 THE COURT: And the government?

15 MR. LANDSMAN-ROOS: No, your Honor.

16 THE COURT: Okay. Mr. Correia, it's the judgment of
17 this Court that you are committed to the custody of the
18 Bureau of Prisons for 12 months and one day on both counts
19 concurrent.

20 Following release, you'll be placed on supervised
21 release for three years with the following conditions:

22 You will not commit another federal, state, or local
23 crime.

24 You will not possess or use any illegal controlled
25 substance.

1 I'm waiving the mandatory drug testing conditions
2 because I find that you pose a low risk of substance abuse.

3 You will cooperate in the collection of DNA as
4 directed by probation.

5 The standard conditions are imposed with the following
6 special conditions:

7 You will provide probation with access to any
8 requested financial information.

9 You will not incur any new credit charges or open
10 additional lines of credit without the approval of probation,
11 unless you're in compliance with the payment schedule.

12 You will report to the nearest probation office within
13 72 hours of release, and you will be supervised by the district
14 of your residence.

15 You must pay restitution to the victims in the amount
16 of \$2,322,500. Again, \$2,322,500. Restitution will be paid in
17 monthly installments of at least 15 percent of any gross
18 monthly income beginning 30 days after release. And I'm
19 signing the government's proposed restitution order to that
20 effect.

21 The schedule of victims as updated over the weekend
22 will be attached to the restitution order but will be under
23 seal because I find the victims' privacy outweighs the interest
24 of public revelation of the victims' identities.

25 You are subject to an order of forfeiture in the

amount of \$43,650 as the Court has previously ordered.

I am not imposing a fine in light of the restitution obligation because I find you're unable to pay a fine.

However, there's a mandatory special assessment of \$200, which is imposed.

Now, I would suggest a surrender date in May.

May 17?

MR. HARRINGTON: Your Honor, I've spoken to Mr. Correia about the COVID risk and the like. And I think that he is nonetheless inclined to try to start his sentence as soon as he can, if he can get designated.

So I would ask the Court for a 45-day delay because I think that's enough time for the Bureau of Prisons to designate something.

THE COURT: That's fine.

MR. HARRINGTON: We noted in our papers as well that there is some uncertainty about the importance of COVID for his condition, but prison is hard for his condition irrespective of COVID. So in terms of his health, it probably is not a big difference.

But I would just ask the Court to be able to write in the event that he decides that based on how things are looking with COVID, he would like to put it off until May and request an adjournment at that time.

THE COURT: Sure. I'll set the surrender date for 45

1 days out. March 22, March 22, 2021. The defendant will
2 surrender on March 22, 2021, before 2:00 p.m. to the facility
3 designated by the Bureau of Prisons.

4 If there's been no designation before that time, you
5 can contact me. You can surrender to the marshals here at the
6 courthouse, or we can talk about a deferment of the surrender
7 date.

8 MR. HARRINGTON: Thank you, your Honor.

9 Your Honor, may I also request that the Court suggest
10 to the BOP that he be designated to FCI Jesup. It's a facility
11 north of Jacksonville, Florida, where his family can drive to
12 visit him once family visits are permitted again and has other
13 offerings that just make it a more suitable facility for
14 Mr. Correia.

15 THE COURT: Does the government have any objection to
16 that recommendation?

17 MR. LANDSMAN-ROOS: No, your Honor.

18 THE COURT: All right. I'll make that recommendation.
19 The Bureau of Prisons ultimately decides where inmates are
20 designated, but I will make the recommendation that the
21 defendant be designated to FCI Jesup for those reasons.

22 Mr. Correia, you do have the right to appeal from your
23 conviction and sentence, except to the extent that you have
24 waived that right as part of your guilty plea and plea
25 agreement.

1 And if you cannot pay the costs of an appeal, you may
2 apply for leave to appeal without costs. Any appeal must be
3 filed within 14 days of the filing of the judgment.

4 And I'm directing that a complete copy of the
5 presentence report be provided to the BOP and Sentencing
6 Commission, and the clerk will prepare the judgment.

7 Is there anything further from Mr. Harrington?

8 MR. HARRINGTON: No, your Honor.

9 THE COURT: From Mr. Roos?

10 MR. LANDSMAN-ROOS: Yes, your Honor. There are open
11 counts which the government would move to dismiss.

12 THE COURT: Okay. All open counts are hereby
13 dismissed as to the defendant. This matter is adjourned.
14 Thank you, everyone.

15 MR. HARRINGTON: Thank you, your Honor.

16 MR. LANDSMAN-ROOS: Thank you, your Honor.

17 (Adjourned)